

BEFORE THE
BOARD OF PODIATRIC MEDICINE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)	
Against:)	
)	NO. D-4610
E. JEFFREY BARNEY, D.P.M.)	
6200 Wilshire Boulevard, Suite 906)	L-55714
Los Angeles, California 90048)	
)	
Podiatric Medicine License No.)	
E-1924,)	
)	
Respondent.)	

DECISION

The attached Proposed Decision of the Board of Podiatric Medicine is hereby adopted as its Decision in the above-entitled matter.

This Decision shall become effective December 30, 1992.

IT IS SO ORDERED November 30, 1992.

BOARD OF PODIATRIC MEDICINE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By


MICHAEL R. VEGA, D.P.M.
PRESIDENT

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PROPOSED DECISION

This matter came on regularly for hearing before Milford A. Maron, Administrative law Judge of the Office of Administrative Hearings, at Los Angeles, California, on July 1, 1992. Robert McKim Bell, Deputy Attorney General, appeared on behalf of the Complainant. Respondent, E. Jeffrey Barney, D.P.M., appeared in person and was represented by Stephen Webb, Esq. Oral and documentary evidence having been received, the matter stood submitted and the Administrative Law Judge finds the following facts:

I

James Rathlesberger, Complainant, is the Executive Officer of the California State Board of Podiatric Medicine and made the Accusation in his official capacity.

II

On December 22, 1975, Podiatric Medicine License No. E-1924 was issued by the Board to respondent E. Jeffrey Barney, D.P.M., and at all times relevant herein, said license has been in full force and effect.

III

A. On or about December 15, 1985, respondent prescribed and administered to patient Anita Duell 30 Demerol¹ tablets of 50 mg. strength. On 25 dates between January 9, 1986 and February 4, 1988, respondent prescribed and administered to patient Duell 850 Percodan² tablets.

B. On 74 dates between January 3, 1983 and December 17, 1987, respondent prescribed and administered to patient Anthony Mastrinni 2,990 Dilauidid³ tablets of 4 mg. strength.

C. On 32 dates between April 16, 1982 and September 9, 1987, respondent prescribed and administered to patient J.D. Putt 1,400 Dilauidid tablets of 4 mg. strength.

* * * * *

The aforesaid acts involve the following violations of law:

1. Repeatedly prescribing clearly excessive amounts of drugs;
2. Prescribing and furnishing dangerous drugs without medical indication therefore; and
3. Gross negligence and repeated negligent acts.

¹"Demerol" is a trade name for the generic injectable drug meperidine hydrochloride which is designated by Health and Safety Code Section 11055(c)(16) as an opiate and a Schedule II controlled substance and by Business and Professions Code Section 4211 as a dangerous drug, and is used as a narcotic analgesic.

²"Percodan" is a trade name for the generic injectable drug oxycodone which is designated by Health and Safety Code Section 11055(b)(1)(N) as an opiate and a Schedule II controlled substance and by Business and Professions Code Section 4211 as a dangerous drug, and is used as a narcotic analgesic.

³"Dilauidid" is a trade name for the generic drug hydromorphone which is designated by Health and Safety Code Section 11055(b)(1)(K) as an opiate and a Schedule II controlled substance and by Business and Professions Code Section 4211 as a dangerous drug, and is used as a narcotic analgesic.

IV

The aforesaid violations must be viewed in the following context which was established by the evidence:

1. Respondent is a respected practitioner in the community and is a board certified podiatrist.
2. Respondent engages in a heavy urban practice load, caring for at least 1,000 patients yearly.
3. Respondent is contrite for his misbehavior, which resulted primarily from inattentiveness and not corruption.
4. The likelihood of a recurrence appears remote because of his attitude of contrition.

* * * * *

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

I

Cause for disciplinary action exists against respondent pursuant to Sections 2222, 2497(a), and 2234 of the Business and Professions Code, in that he has committed repeated acts of clearly excessive prescribing and administering of drugs.

II

Cause for disciplinary action exists against respondent pursuant to Sections 2222, 2497(a), and 2234 of the Business and Professions Code, for unprofessional conduct within the scope of Sections 2234(a) and 2242(a) of the Business and Professions Code, for prescribing, dispensing, and furnishing a dangerous drug to a person without medical indication therefor.

III

Cause for disciplinary action exists against respondent pursuant to Sections 2222, 2497(a) and 2234 of the Business and Professions Code for gross negligence and unprofessional conduct within the scope of the Business and Professions Code Section 2234(b).

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

The Podiatric Medicine License #E-1924, previously to E. Jeffrey Barney, DPM, is hereby revoked; provided, however, said revocation shall be stayed and the licensee placed on probation for a period of five (5) years subject to the following terms and conditions:

(1) Respondent shall obey all federal, state and local laws, and all rules governing the practice of podiatric medicine in California.

(2) Respondent shall submit quarterly declarations, under penalty of perjury, on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

(3) Respondent shall comply with the Board's probation surveillance program.

(4) Respondent shall appear in person for interviews with the Board's medical consultant, upon request, at various intervals, and with reasonable notice.

(5) In the event respondent should leave California to reside or to practice outside the state, respondent must notify the Board in writing of the dates of departure and return. Periods of residency or practice outside California will not apply to the reduction of this probationary period.

(6) Within 90 days of the effective date of this decision, and on an annual basis thereafter, respondent shall submit to the Board for its prior approval an educational program or course related to prescribing and furnishing dangerous drugs, which shall not be less than 40 hours per year, for each year of probation. This program shall be in addition to the Continuing Medical Education requirements for relicensure. Following the completion of each course, the Board or its designee may administer an examination to test respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of continuing medical education of which 40 hours were in satisfaction of this condition and were approved in advance by the Board or its designee.

(7) Respondent shall maintain a record of all controlled substances prescribed, dispensed or administered by respondent during probation, showing all the following: 1) the name and address of the patient, 2) the date, 3) the character and quantity of controlled substances involved, and 4) the pathology and purpose for which the controlled substance was furnished.

Respondent shall keep these records in a separate file or ledger, in chronological order, and shall make them available for inspection and copying by the Board or its designee, upon request.

* * * * *

Upon successful completion of probation, respondent's license will be fully restored. If respondent violates probation in any respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the position of the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

DATED: July 15, 1992



MILFORD A. MARON
Administrative Law Judge
Office of Administrative Hearings

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